

Sidney H. Scheinberg, Esq.
State Bar No. 17736620
Godwin Bowman & Martinez PC
1201 Elm Street, Suite 1700
Dallas, TX 75270
Telephone: (214)939-4501
Fax: (214)527-3116
Email: SScheinberg@GodwinLaw.com
Attorney for Movant
Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE: §
§
Lorraine Marie Vargas, § **CASE NO. 15-51704**
§
Debtor. §

MOTION TO LIFT AUTOMATIC STAY

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS. IF NO TIMELY RESPONSE IS FILED WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD. A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD. ANY OBJECTION OR REQUEST FOR HEARING MUST BE FILED WITH:

UNITED STATES BANKRUPTCY COURT WESTERN DISTRICT OF TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services, hereinafter called Movant, and makes this, its Motion to Lift Automatic Stay against Debtor Lorraine Marie Vargas, and pursuant to 11 U.S.C. § 362(d)(1) for cause, by reason of a lack of adequate protection of Movant's rights as a secured creditor, and alternatively, pursuant to 11 U.S.C. § 362(d)(2) by reason of the Debtor's lack of equity in the vehicle, and for grounds thereof respectfully shows the Court the following:

1. Movant would show the Court that on or about 11/22/2011, Debtor Lorraine

Marie Vargas executed and delivered to Movant a certain Retail Installment Sales Contract in the

MOTION TO LIFT AUTOMATIC STAY
2855048 v1-99999/1262 CLIENTDOCS

Page 1

principal amount of \$15,465.71, for the purchase of a 2007 Ford Explorer XLT, VIN 1FMEU73E67UB68329, wherein Debtor agreed to pay Movant 48 payments of \$482.15 beginning 01/06/2012. A copy of the Retail Installment Sales Contract is attached hereto as Exhibit "A", and incorporated herein for all intents and purposes. Movant is the lienholder on said vehicle, as evidenced by the copy of the Texas Certificate of Title, attached hereto as Exhibit "B" and incorporated herein for all intents and purposes.

2. Debtor is in arrears to Movant on monthly in the total amount of \$5,706.71. Further, Debtor is obligated to maintain physical insurance on the said vehicle.

3. Movant demands proof of and maintenance of insurance on the vehicle, listing Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services as loss-payee and otherwise acceptable to Movant on the policy. If the vehicle is uninsured, it constitutes cause to terminate the automatic stay.

4. The vehicle which is the collateral herein has a value of less than the total amount owed to Movant under the terms of the Retail Installment Sales Contract. Debtor, therefore, has no equity in the collateral.

5. The vehicle in question continues to depreciate rapidly in value, and Debtor is failing to adequately protect the security interest of the Movant.

6. In addition, an order modifying the plan which surrenders Debtor's interest in the collateral was entered on 08/24/2016.

7. Movant asks the Court to lift the Automatic Stay as it pertains to the vehicle set out herein, and allow Movant to pursue its remedies under State law, or in the alternative, provide adequate protection to ensure that Movant's interests are properly preserved.

8. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

9. NOTICE TO PARTIES IN INTEREST:

ANY OBJECTION OR REQUEST FOR HEARING MUST BE FILED WITH:

Clerk, United States Bankruptcy Court
Western District of Texas
San Antonio Division
615 E. Houston Street, Room 137
Mailing: P.O. Box 1439
San Antonio, TX 78295-1439

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH RESPONSE. IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

WHEREFORE, PREMISES CONSIDERED, Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services prays the Court enter an Order terminating the automatic stay to permit Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services to exercise its state law remedies pursuant to the terms of the Retail Installment Sales Contract attached hereto. Movant further prays that the Court waive the provision of Rule 4001 (a) (3) and that Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

Respectfully submitted,

GODWIN BOWMAN & MARTINEZ PC

By: /s/ Sidney H. Scheinberg
SIDNEY H. SCHEINBERG
State Bar No. 17736620
1201 Elm Street, Suite 1700
Dallas, TX 75270
Telephone: (214)939-4501
Fax: (214)527-3116
Email: SScheinberg@GodwinLaw.com
ATTORNEY FOR MOVANT
Wells Fargo Bank, N.A., d/b/a Wells Fargo
Dealer Services

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above and foregoing Motion to Lift Automatic Stay has been served on each of the following parties of interest on December 23, 2016, as shown either by first class postage or notified electronically:

Debtor's Attorney
Joris Robert Vanhemelrijck
Vanhemelrijck Law Offices, LP
1100 NW Loop 410, Suite 215
San Antonio, TX 78213

Debtor
Lorraine Marie Vargas
6719 Spring Hurst Street
San Antonio, TX 78249

Trustee
Mary K Viegelahn
San Antonio Chapter 13 Trustee
10500 Heritage Blvd. - Suite 201
San Antonio, TX 78216

/s/ Sidney H. Scheinberg
SIDNEY H. SCHEINBERG